Rodney M. Toothacre, In Pro Se
13742 Indian Peak Trail
Poway, California 92064
858-513-0217
Fax: 858-513-0117

FILED
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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: DEPUTY

THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

RODNEY M. TOOTHACRE Plaintiff, v. UNITED STATES OF AMERICA and INTERNAL REVENUE SERVICE, Defendant.	Case No. '07 CV 2289 DMS (WMC) Verified Complaint for Damages For Illegal Tax Collection and Injunctive Relief (Jury Trial Requested)

Plaintiff, Rodney M. Toothacre, (hereinafter "Toothacre") complains of Defendants United States of America and Internal Revenue Service, and seeks damages for illegal tax collections under Internal Revenue Code (IRC) Section 7433 and an injunction removing illegal replacement federal tax liens under IRC 6331 (i)(4)(B).

I. INTRODUCTION

1. This is an action brought under 26 U.S.C. §7433 for minimum statutory damages of $100,000.00 plus fees and costs for illegal Internal Revenue Service liens on real property of Toothacre. Further, Plaintiff Toothacre requests a Temporary Restraining Order in order to remove the illegal liens. In the alternative, should this TRO not be granted the damages awarded to Plaintiff Toothacre should be increased by $1,000.00 per day for each day that the liens remain in place after the filing of this lawsuit and notice to the Defendants. Further, Plaintiff requests a trial by jury,

pursuant to FRCivP 38.

2. 26 U.S.C. § 7432. Civil damages for failure to release lien states:

> (a) In general if any officer or employee of the Internal Revenue Service knowingly or by reason of negligence, fails to release a lien under 6325 on property of the taxpayer, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

26 U.S.C. § 6325. Release of lien or discharge of property provides:

> (a) Release of lien subject to such regulations as the Secretary may prescribe, the Secretary shall issue a certificate of release of any lien imposed with respect to any internal revenue tax not later than 30 days after the day on which - (1) Liability is satisfied or unenforceable The Secretary finds that the liability for the amount assessed, together with all interest in respect thereof, has been fully satisfied or has become legally unenforceable.

The regulations that the Secretary has prescribed are 25 C.F.R. § 301.6325 - Release of lien or discharge of property:

> (a) Release of lien – (1) Liability satisfied or unenforceable. Any district director may issue a certificate of release of a lien imposed with respect to any internal revenue tax, whenever he finds that the entire liability for the tax has...become unenforceable as a matter of law (and not merely uncollectible or unenforceable as a matter of fact).

26 U.S.C. § 7433. Civil damages for certain unauthorized collection actions

> (a) In general
>
> If, in connection with any collection of Federal tax with respect to a taxpayer, any officer or employee of the Internal Revenue Service recklessly or intentionally, or by reason of negligence, disregards any provision of this title, or any regulation promulgated under this title, such taxpayer may bring a civil action for damages against the United States in a district court of the United States. Except as provided in section 7432, such civil action shall be the exclusive remedy for recovering damages resulting from such actions.
>
> (b) Damages
>
> In any action brought under subsection (a) or petition filed under subsection (e), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the lesser of $1,000,000 ($100,000, in the case of negligence) or the sum of——
> (1) actual, direct economic damages sustained by the plaintiff as a proximate result of the reckless or intentional or negligent actions of the officer or employee, and
> (2) the costs of the action.

3. This Court has jurisdiction pursuant to 28 U.S.C. Section 1331 as this action involves federal statutes and defendants are federal agencies; IRC 7433, FRCivP 65, 28 U.S.C. Sections 451, 1331, 1357, 1361, and 1391 (e). Injunction is authorized under IRS Section 6331 (i) (4) (b).

4. Toothacre is an American citizen and resident of this District and of the County of San Diego, California.

5. Toothacre's home is located in Poway, California, upon which the Internal Revenue Service IRS) has placed illegal Notices of Federal Tax liens (NFTLs) halting the successful closing of a refinance escrow, causing immense problems for Toothacre. Toothacre was trying to use some of the proceeds of the refinancing of the home in order to become compliant with all of the taxes he does not dispute and also to replace the roof on the home and make other necessary repairs. Toothacre made many good faith efforts to reach a compromise with the defendant but the defendant refused and continues to refuse to negotiate in good faith. The illegal actions of the IRS prevented the closing of the refinance escrow and to this very day it has not closed, even though a major portion of the funds were to go to the IRS for tax years not disputed.

6. Plaintiff filed with the Internal Revenue Service a NOTICE OF INTENT TO SUE THE UNITED STATES OF AMERICA. That notice was dated April 6, 2006. By letter dated November 7, 2007, approximately one and one half years later, the IRS denied Plaintiff's Administrative Claim for Damages under 26 USC sects. 7432, 7433, Civil Damages for Failure to Release Lien, dated May 16, 2006. (sic)

II. FACTS

7. More than 10 years ago, the IRS made an assessment against Rodney M. and Marcia L. Toothacre (now deceased) for tax years 1993 and 1994. Toothacre did not contest the assessments. On February 4, 1997, the IRS filed the Notice of Federal Tax Liens (NFTLs) for the unpaid assessments of those ancient years.

8. After 10 years by law, under the Statue of Limitations, the federal liens expired. Federal Tax Liens self extinguished after 10 years. The liens were gone, finished, over with and extinguished. Additionally the Internal Revenue Service voluntarily issued Certificates of Release of Liens for tax years 1993 and 1994. The IRS NFTL Form (668)(Y)(c) very clearly includes the following statement in the box.

IMPORTANT RELEASE INFORMATION: For each assessment listed below, unless notice of the lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).

Column (e) referred to in the box above is listed on the NFTL as "Last Day For Refiling." Column (e) indicates that for the tax year ending 12/31/93 the last day for refiling was 05/31/05 and that for the tax year ending 12/31/94 the last day for filing was 07/05/05. That means if the Statue of Limitations is not extended by the last day for refiling, the lien and the assessment that it protects are lost and gone forever. In addition to the fact that the NFTL operated as a certificate of release as defined in IRC 6325(a), the IRS voluntarily, on August 8, 2005, issued a Certificate of Release of Federal Tax Lien for tax years 1993 and 1994.

9. On **January 19, 2006,** Attorney Carmellino, Toothacre's representative, wrote a letter to Revenue Officer Martinez, in which he advised her that in reviewing The San Diego Daily Transcript he discovered that, on **December 21, 2005,** the IRS caused to be recorded two Notices of Federal Tax Liens against Toothacre & Pedestrian. (Sic) a Partnership. Neither Mr. Pederson nor Mr. Toothacre received any notice whatsoever of this action by the IRS. This event is, without doubt, the most convincing evidence that Revenue Agent Martinez abused her discretion and was intent on punishing Toothacre. Revenue Officer Martinez had previously been furnished by Toothacre Certificates of Release of Federal Tax Liens indicating that the NFTLs against the TOOTHACRE & PEDERSON law firm had been released.. In fact, the last day for filing either of those documents was in ***2002.*** Attorney Carmellino's letter dated January 19, 2006, stated:

> I am enclosing copies of those Certificates of Release of Federal Tax Liens for your information, although Mr. Toothacre provided these to you by his previous letter. As indicated on the face of these documents the last days for refiling (CSED) were in 2002. As you know this is 2006. The collection statute has run. **The Collection Statute Expiration Date came and went over three years ago. You must be fully aware of these facts.**

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///

officer handling Toothacre's refinance escrow. That document reflects all tax liens filed in San Diego County, CA and listed the tax liabilities for which there were filed liens. There is no mention of a lien for either tax year 1993 or tax year 1994. The total payoff figure was $147,528.16. The second document is dated September 3, 2005, issued by the Lien Unit Manager of the IRS and addressed to Rodney M & Marcia L Toothacre at the residence address. This document also was intended to be a beneficiary statement and it reflects a payoff figure of $90,504.31. The reduction from the previous pay off figure is accounted for by the fact that liens against the partnership TOOTHACRE & PEDERSON had been removed also both by self releasing and by action of the IRS in issuing Certificates of Release of Liens. The second document specifically states that the taxes for tax years 1993 and 1994 had been assessed, "but liens have not been filed". True and correct copies of both of these documents are attached hereto marked Exhibit # 2 and made a part hereof as though set forth in full. These documents clearly establish that as far as the Lien Unit of the IRS was concerned, in August and September of 2005, there were no valid liens concerning tax years 1993 and 1994.

11. Revenue Officer Martinez intentionally and purposefully interfered with the pending refinance escrow by delivering to the escrow holder Notices of Federal taxes due in the total amount of $488,367.37, knowing full well at the time of delivery to escrow by Revenue Officer Martinez that some, if not most, of the taxes alleged to be due were uncollectible because the CSEDs (Collection Statute Ending Dates) had run. Revenue Officer Martinez took this action wilfully intentionally and with malice. One of the Notices of Federal Taxes due claimed taxes for the tax year 1992. Copies of the two notices which were delivered to the escrow holder are attached hereto marked Exhibit # " 3"and made a part hereof as though set forth in full..

12. The original Notice of Federal Tax Lien, dated January 30, 1997 and recorded in the records of the San Diego County Recorder's Office on February 4, 1997, contains, on its face, the following information.

> **IMPORTANT RELEASE INFORMATION:** For each assessment listed below, unless a notice of the lien is refiled by the date given in column (e), this notice shall, the day following such date, operate as a certificate of release as defined in IRC 6325(a).

Accordingly the Notice of Federal Tax Lien on May 31, 2005 and on July 5, 2005 became Certificates of Release and released the liens claimed. A true, correct and accurate copy of the original Notice of Federal Tax Lien is attached hereto, marked Exhibit # 4 and made a part hereof by this reference.

13. In addition to the fact that those liens expired by their own terms, there were also Certificates of Release of Federal Tax Liens issued by the IRS on August 8, 2005, and recorded with the San Diego County Recorder. In spite of this knowledge Revenue Officer Martinez, maliciously, fraudulently and falsely told the escrow officer that the Certificates of Release of Federal Tax Liens were filed in error even though IRC § 63215(f) provides in part:

> Except as provided in paragraphs (2) and (3), if a certificate is issued pursuant to this section by the Secretary and is filed in the same office as the notice of lien to which it relates (if such notice of lien has been filed) such certificate shall have the following effect:
>
> (A) in the case of a certificate of release, such certificate shall be ***conclusive*** that the lien referred to in such certificate is extinguished; (emphasis added)

14. In this case, after the Federal Tax Liens were extinguished by the Stature of Limitations, the IRS attempted to extend the liens. Toothacre does not contest the fact that the IRS can extend the life of NFTL before the expiration of the Statue of Limitations or before the "last day for refiling". However, in this case, the IRS attempted to extend the expired liens by filing Forms 12474-which are designed to apply to "Revocation of Certificate of Release of Federal Tax Lien." This Revocation was not filed according to law, but it halted the closing, which cost Toothacre a large amount of money. This revocation of Certificate of Release of Federal Tax Lien, whether by error or purposely to harass Toothacre, cost Toothacre a lot of money. The IRS never did file Form 12474-A which is intended for use when the IRS allows a Notice of Federal Tax Lien filed against the taxpayer to operate as a Certificate of Release of Federal Tax Lien. Accordingly, to this very moment, the IRS has made no attempt to revoke the Self Releasing Notice of Federal Tax Lien. The Revocation of Lien Releases are marked Exhibit # 5 and made a part hereof by this reference as though set forth in full. The loss to Toothacre continues on a daily basis, causing irreparable harm and more damages.

15. Ms. Chadwell was the Settlement Officer (SO) or Appeals Officer (A) in connection

with Toothacre's Collection Due Process Hearing and in her Case Activity Record Print Ms. Chadwell states on the second page:

> 3. Lien was released and the IRS issued a Certificate of Release. **The TP was not given timely notice of the lien filing.** The NFTL on the 1993 and 1994 years was not refiled timely so the a (sic) certificate of release of the NFTL was erroneously issued. IRC 6325(f)(2) gives the IRS authority to revoke the release and reinstate the lien. a new lien was filed under IRC 6323(f) so that the reinstated lien will be valid against any lien or interest in 6323(a). ***Per IRM new lien has to be filed after the notice of revocation is mailed to the TP and recorded.*** **The effective date of reinstatement is the date the IRS mails the notice of revocation to the TP but not before the date the notice is filed at the SDCR.** ***I will need a copy of the notice of revocation.*** **Per ALS the new lien was recorded (sic) 12/05/05 with REC #2005-1042915.** ***Hopefully the notice of revocation was recorded and mailed to the TP before this date.*** **ALS shows 12/7/05 as 3172 date yet copy of 3172 shows 12/13/05. The difference may be due to fact RO manually filed lien. Also noted that lien filing date on notice is given as 12/06/05 when ALS and ICS shows the actual recording date to be 12/5/05. 5 business days after recording date is 12/12/05. IRC 6320(a)(2)(c)** Thus it can be argued that notice was issued one day late. However as far as I am concerned this is an administrative error that does not invalidate the NFTL. Based on wording in TPS appeal he claims that he was not notified with 5 business (sic).(emphasis added) (Case Activity Record is Attached hereto marked Exhibit # "6" and made a part hereto by this reference as though set forth in full.)

16. The Internal Revenue Code is extremely complicated and complex. If the IRS has legal grounds to revoke the automatic release and the voluntary release, they should be required to show cause before this court. The IRS must prove why the revocation forms should not be removed of record along with any other impediment imposed by the IRS.

17. Toothacre has given the IRS no grounds to extend the Statue of Limitations. This is entirely a matter of law as no facts are in dispute.

III. TEMPORARY INJUNCTION

18. Toothacre requests a Temporary Restraining Order (TRO) and removal of the illegal federal tax liens against his real estate. In the alternative, Toothacre request that the damages under IRC 7433 be increased by $1000.00 per day.

19. Defendant has no chance of prevailing in this case. The liens were extended after they expired by the Statue of Limitations. The facts or the law simply do not support the Certificates of Revocation of Releases.

20. The IRS will suffer no harm from a temporary order removing the tax liens. Toothacre is not going anywhere and is not moving the real estate. The IRS will eventually collect

every cent that is owed plus interest.. A TRO would lessen the Toothacre's damages and the IRS payout under the Illegal Tax Collection Act.

21. Toothacre is suffering irreparable harm due to the inability to refinance his residence, pay the undisputed taxes and perform necessary repairs to the residence. Toothacre has exhausted his administrative remedies and is entitled to a TRO. He has no alternative remedy by law. No bond is needed under Rule 65 as no money of the tax people is at risk.

22. This court should issue its Order to Show Cause for the IRS to disprove Toothacre's request. However, the government's attorney will need a long time to force the IRS to produce the records and documents in this case. The tax agency has historically been reluctant to admit the errors of its employees.

23. Notice to opposing party under Rule 65 (b) is not needed because:

A. Toothacre will lose more money and suffer immediate and irreparable financial loss and damages.

B. Toothacre as attorney pro se certifies such in this verified complaint.

WHEREFORE Toothacre requests This Honorable Court do grant the relief herein requested including compensatory damages, fees, costs and out-of-pocket cost and other appropriate relief as the Court seems proper.

Respectfully submitted:

Dated: December 5, 2007

Rodney M. Toothacre, Plaintiff In Pro Se

VERIFICATION

Rodney M. Toothacre hereby verifies that the information stated above is true and correct.

Dated: December 5, 2007

Rodney M. Toothacre

State of California (
County of San Diego (

Sworn to before me this ______day of December, 2007.

My Commission expires ____________________

Notary Public for California

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Diego

On December 5, 2007 (Date) before me, Carole Belchat, Notary Public (Name and Title of Officer (e.g., "Jane Doe, Notary Public")),

personally appeared Rodney M. Toothacre (Name(s) of Signer(s))

☐ personally known to me

☒ (or proved to me on the basis of satisfactory evidence)

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

CAROLE BELCHAT
Commission # 1767642
Notary Public - California
San Diego County
My Comm. Expires Sep 14, 2011

Place Notary Seal Above

Signature [signature] (Signature of Notary Public)

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: United States District Court, Southern District of California

Document Date: 12-5-07 Number of Pages: 9

Signer(s) Other Than Named Above: N/A

See attached signature

Capacity(ies) Claimed by Signer(s)

Signer's Name: Rodney M. Toothacre

☒ Individual
☐ Corporate Officer — Title(s): ______
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: ______

Signer Is Representing: Self

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: ______

☐ Individual
☐ Corporate Officer — Title(s): ______
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: ______

Signer Is Representing: ______

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

© 2006 National Notary Association • 9350 De Soto Ave., P.O. Box 2402 • Chatsworth, CA 91313-2402 Item No. 5907 v609 Reorder: Call Toll-Free 1-800-876-6827

EXHIBIT 1

January 19, 2006

Ms. A. Martinez
Revenue Officer
Internal Revenue Service
880 Front Street, Room 3293
San Diego, California 92101

Re: Rodney M. Toothacre, SS# 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

Dear Ms. Martinez:

In reviewing the January 16, 2006 Daily Transcript, I discovered that, on December 21, 2005, the Internal Revenue Service caused to be recorded two Notices of Federal Tax Liens against Toothacre & Pedestrian (sic). One of the liens was in the amount of $8,869.76 and the other in the amount of $22,158.70. I have checked with both my client, Mr. Toothacre, and Mr. Pederson and have been advised that neither of them have received any prior, or subsequent, notice of the action taken by the IRS on that date. I am obtaining copies of the liens from a title insurance company and have not, as yet, seen copies of the actual documents filed by the IRS in December.

As you were made aware by Mr. Toothacre many months ago these taxes were released by the IRS on August 8, 2005. I am enclosing copies of those Certificates of Release of Federal Tax Liens for your information, although Mr. Toothacre provided these to you by his previous letter. As indicated on the face of these documents the last days for refiling (CSED) were in 2002. As you know this is 2006. The collection statute has run. The Collection Statute Expiration Date came and went over three years ago. You must be **fully aware** of these facts.

It is patently obvious that the refiling of these liens is malicious and an obvious attempt by the Service to bully my client and destroy his life. All of this in violation of your own Manual and the Taxpayer Bill of Rights. Mr. Toothacre is trying to pay those taxes which are due, and collectible, and you are making every effort to thwart his attemmpts.

DEMAND IS HEREBY MADE THAT THESE LIENS BE IMMEDIATELY RELEASED.

Very Truly Yours

LAW OFFICES OF JOSEPH S. CARMELLINO

Joseph S. Carmellino

JSC:dlb

1040 balance of $5,921.29. Recorded San Diego County, document 0000660 - 264950305
Santee - Darcy W. Granbois, taxpayer, 10844 El Nopal 92071, Property lien for 1040 balance of $6,960.32. Recorded San Diego County, document 0000661 - 264951205
Encinitas - Phillip Jaffe, taxpayer, 1100 Garden View Road, Apt. 205 92024, Property lien for 1040 balance of $27,371.80. Recorded San Diego County, document 0000662 - 264951305
La Jolla - John Cole, taxpayer, 755 Silver St. 92037, Property lien for 1040 balance of $55,506.60. Recorded San Diego County, document 0000663 - 264951905
Chula Vista - Albert J. Beck, taxpayer, 2109 N. Shore Drive, Unit B 91913, Property lien for 1040 balance of $8,664.48. Recorded San Diego County, document 0000666 - 264953005
Encinitas - Gloria J. Gomez, taxpayer, 375 La Mesa Ave. 92024, Property lien for CIVP balance of $27,039.40. Recorded San Diego County, document 0000666 - 264953605
Chula Vista - Diana K. Leos-Hedges & Roy Hedges, Jr., taxpayer, 86 Madison Ave., Apt. 6 91910, Property lien for 1040 balance of $1,058.96. Recorded San Diego County, document 0000667 - 264953705
San Diego - Jacob A. Romyn, taxpayer, 4230 Montalvo, Apt. 2 92107, Property lien for

Village Circle 92008, Property lien for 1040 balance of $5,813.34. Recorded San Diego County, document 1115482 - 263620705
San Diego - Kathi Reese, taxpayer, 3633 Camino del Rio South, #101 92108, Property lien for 1040 balance of $78,878.90. Recorded San Diego County, document 1115468 - 263307605
Recorded 12/22/05.
La Jolla - Toothacre & Pedestrian, a Ptr., Rod M. Toothacre, a Ptr. & Charles Pederson, a Ptr., taxpayer, 4180 La Jolla Village Drive, Ste. 400 92037, Property lien for 941 balance of $8,869.76. Recorded San Diego County, document 1097286 - 265212205
La Jolla - Toothacre & Pedestrian, a Ptr., Rod M. Toothacre, a Ptr. & Charles Pederson, a Ptr., taxpayer, 4180 La Jolla Village Drive, Ste. 400 92037, Property lien for 941 balance of $22,158.70. Recorded San Diego County, document 1097285 - 265212405
Recorded 12/21/05.
Del Mar - Joseph S. Urbon & Teresa S. Stroebel, taxpayer, 13731 Nob Ave. 92014, Property lien for 1040 balance of $11,681.00. Recorded San Diego County, document 1092922 - 262776805
Spring Valley - William H. Homer, taxpayer, 3609 Steele Canyon Road 91978, Property lien for 940, 941 balance of $4,850.45. Recorded San Diego County, document 1092921 - 262776705
San Diego - Infinity Staffing Solutions, a Ptr.,

San Marcos - Jack O… taxpayer, 643 Cass… for 1040 balance o… San Diego County… 262775705
San Diego - Clifford G. … Arizona St., Apt. G 9… 1040 balance of $5,9… Diego County, do… 262486705
El Cajon - Christopher … 1299 Dunsmuir St. 920… 1040 balance of $26… San Diego County, do… 262486805
…Vista - Frank L. Berne… Courage St. 92081, Pro… balance of $4,057.79. R… County, document 1092…
El Cajon - Maria Contr… Cleaning Co., taxpayer, … Apt. 203 92021, Property … balance of $2,292.62. Rec… County, document 109290…
Chula Vista - James A. Gut… 550 Oxford, Apt. 1107 919… for 1040 balance of $11,82… San Diego County, docum… 262550705
Chula Vista - James Gutierrez, … Oxford, Apt. 1107 91911, Pr… 1040 balance of $9,832.46 …

3469

Department of the Treasury - Internal Revenue Service

Certificate of Release of Federal Tax Lien

Area: SMALL BUSINESS/SELF EMPLOYED AREA #14 Lien Unit Phone: (800) 913-6050	Serial Number 339279822	For Use by Recording Office

I certify that the following-named taxpayer, under the requirements of section 6325 of the Internal Revenue Code has satisfied the taxes listed below and all statutory additions. Therefore, the lien provided by Code section 6321 for these taxes and additions has been released. The proper officer in the office where the notice of internal revenue tax lien was filed on December 03, 1992, is authorized to note the books to show the release of this lien for these taxes and additions.

001950

Name of Taxpayer TOOTHACRE & PEDERSON A PARTNERSHIP
ROD M TOOTHACRE A PTR
CHARLES PEDERSON A PTR

Residence 4180 LA JOLLA VILLAGE DR STE 400
LA JOLLA, CA 92037

COURT RECORDING INFORMATION:

Liber	Page	UCC No.	Serial No.
n/a	n/a	n/a	920775751

Kind of Tax (a)	Tax Period Ended (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
941	12/31/1991	95-3272342	03/23/1992	04/22/2002	11951.77
941	03/31/1992	95-3272342	06/15/1992	07/15/2002	10206.88
xxxxx	xxxxxxxxxxxxxx	xxxxxxxxxxxxxxxxxx	xxxxxxxxxxxxxxxx	xxxxxxxxxxxxxx	xxxxxxxxxxxxx

Place of Filing

COUNTY RECORDER
SAN DIEGO COUNTY
SAN DIEGO, CA 92101

Total 22158.65

This notice was prepared and signed at LAGUNA NIGUEL, CA, on this,

the 08th day of August, 2005.

Signature [signature]

Title Director, Payment Compliance

(NOTE: Certificate of officer authorized by law to take acknowledgements is not essential to the validity of Certificate of Release of Federal Tax Lien Rev. Rul. 71-466, 1971 - 2 C.B. 409

Part 2 - Taxpayer's Copy

8

Form 668 (Z) (Rev. 10-2000)
CAT. NO 600261

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Form 668 (Z)
(Rev. 10-2000)

3469

Department of the Treasury - Internal Revenue Service

Certificate of Release of Federal Tax Lien

Area:
SMALL BUSINESS/SELF EMPLOYED AREA #14
Lien Unit Phone: (800) 913-6050

Serial Number
339283064

For Use by Recording Office

I certify that the following-named taxpayer, under the requirements of section 6325 of the Internal Revenue Code has satisfied the taxes listed below and all statutory additions. Therefore, the lien provided by Code section 6321 for these taxes and additions has been released. The proper officer in the office where the notice of internal revenue tax lien was filed on December 17, 1992, is authorized to note the books to show the release of this lien for these taxes and additions.

001953

Name of Taxpayer TOOTHACRE & PEDERSON A PARTNERSHIP
ROD M TOOOTHACRE A PARTNER
CHARLES PEDERSON A PARTNER

Residence 4180 LA JOLLA VILLAGE DR SUITE 400
LA JOLLA, CA 92037

COURT RECORDING INFORMATION:

Liber	Page	UCC No.	Serial No.
n/a	n/a	92268805	n/a

Kind of Tax (a)	Tax Period Ended (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
941	12/31/1991	95-3272342	09/21/1992	10/21/2002	8869.76
*****	************	****************	**************	************	***********

Place of Filing

SECRETARY OF STATE
SACRAMENTO, CA 94235

Total 8869.76

This notice was prepared and signed at LAGUNA NIGUEL, CA, on this,

the 08th day of August, 2005.

Signature [signature]

Title
Director, Payment Compliance

(NOTE: Certificate of officer authorized by law to take acknowledgements is not essential to the validity of Certificate of Release of Federal Tax Lien
Rev. Rul. 71-466, 1971 - 2 C.B. 409

Part 2 - Taxpayer's Copy

5

Form 668 (Z) (Rev. 10-2000)
CAT. NO 600261

Internal Revenue Service **Department of the Treasury**

Date:
08/05/2005
Payoff Number:

Fidelity National Title Company
% Natalie Drosi
5060 Shoreham Pl Ste 130
San Diego, CA 92122

Tax Examiner:
Kay Kindle
Employee Identification Number:
17-53917
Telephone Number:
1-800-913-6050
Taxpayer Identification Number:
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

Notice(s) of Federal Tax Lien was/were filed in San Diego County, CA for the tax liabilities listed below on:

Rodney M Toothacre
13742 Indian Peak Trl
Poway, CA 92064

Type of Tax	MFT	Tax Period	Identifying Number	Name Control	Unpaid Balance	Statutory Additions to: Interest	Penalty	09/05/2005 Total
1040	30	199512	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	TOOT	$22,568.12	$22,173.66	$4,481.25	$49,223.03
1040	30	199612	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	TOOT	$11,655.47	$9,358.22	$2,653.25	$23,666.94
~~941~~	~~01~~	~~199206~~	~~95-3272342~~	~~RODN~~	~~$8,761.50~~	~~$14,252.54~~	~~$1,892.93~~	~~$24,906.97~~
~~941~~	~~01~~	~~199209~~	~~95-3272342~~	~~RODN~~	~~$9,103.91~~	~~$14,316.99~~	~~$1,966.50~~	~~$25,387.40~~
~~941~~	~~01~~	~~199212~~	~~95-3272342~~	~~RODN~~	~~$8,760.40~~	~~$13,507.05~~	~~$1,904.43~~	~~$24,171.88~~
941	01	199503	95-3272342	RODN	$55.50	$91.49	$0.00	$146.99
941	01	199609	95-3272342	RODN	$14.00	$10.95	$0.00	$24.95

T+P

Please make your check or money order payable to the United States Treasury. So that we can properly apply your payment, send your payment with a copy of this letter to:

P.O. Box 1210
Charlotte, NC 28201-1210

The amount needed to release the lien(s) is $147,528.16. A Certificate of Release of Federal Tax Lien will be issued immediately only ~~if payment is~~ made by 09/05/2005 with:

1. Cash, or
2. Certified or cashier's check, or
3. Treasurer's check drawn on a national/state bank or trust company, or
4. Postal or bank money order.

If the payment is made in any other form, the release will be delayed for 30 days or until evidence is furnished that the funds have been transferred.

If you should have any questions, please contact the person whose name and telephone number appear at the top of this letter.

MGR

Signature

(Title) Lien Unit Manager

Letter 3641

Department of the Treasury – **Internal Revenue Service**

Internal Revenue Service **Department of the Treasury**

Date:
09/03/2005
Payoff Number:

Rodney M & Marcia L Toothacre
13742 Indian Peak Trl
Poway, CA 92064

Tax Examiner:
Kay Kindle
Employee Identification Number:
17-53917
Telephone Number:
1-800-913-6050
Taxpayer Identification Number:
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

Notice(s) of Federal Tax Lien was/were filed in San Diego County, CA for the tax liabilities listed below.

Type of Tax	MFT	Tax Period	Identifying Number	Name Control	Unpaid Balance	Statutory Additions to: Interest	Penalty	10/03/2005 Total
1040	30	199512	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	TOOT	$22,568.12	$22,392.17	$4,481.25	$49,441.54 OK
1040	30	199612	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	TOOT	$11,655.47	$9,458.89	$2,653.25	$23,767.61 OK
								$0.00

The following periods have been assessed, but liens have not been filed.

Type of Tax	MFT	Tax Period	Identifying Number	Name Control	Unpaid Balance	Statutory Additions to: Interest	Penalty	10/03/2005 Total
~~1040~~	~~30~~	~~199312~~	~~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~~	~~TOOT~~	~~$97,606.54~~	~~$146,566.08~~	~~$23,163.18~~	~~$267,335.80~~
~~1040~~	~~30~~	~~199412~~	~~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~~	~~TOOT~~	~~$9,731.20~~	~~$11,799.25~~	~~$2,456.25~~	~~$23,986.70~~
1040	30	200312	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	TOOT	$16,515.00	$1,395.15	$2,342.28	$20,252.43 OK

The total amount of your outstanding tax liability (including accruals) is $402,079.24. The amount needed to release the liens is $90,504.31. A Certificate of Release of Federal Tax Lien will be issued ~~immediately only if~~ payment is made by 10/03/2005 with:

1. Cash, or
2. Certified or cashier's check, or
3. Treasurer's check drawn on a national/state bank or trust company, or
4. Postal or bank money order.

If the payment is made in any other form, the release will be delayed for 30 days or until evidence is furnished that the funds have been transferred.

Please make your check or money order payable to the **United States Treasury.** So that we can properly apply your payment, send your payment with a copy of this letter to:

P.O. Box 1210
Charlotte, NC 28201-1210

If you should have any questions, please contact the person whose name and telephone number appear at the top of this letter.

[signature] MGR

Signature (Title) Lien Unit Manager

Letter 3640

EXHIBIT 3

:38 FR FNF SHOREHAM 8584578149 TO IMS P.02
:28 IRS SBSE SAN DIEGO 619 615 3722 P.02/03

Department of the Treasury-Internal Revenue Service

Notice of Federal Taxes Due

Escrow or Docket Number
8848061-ND

Amount due
$409,732.93

scrow Holder, Agent of Taxpayer or Fiduciary)
IONAL TITLE
SI – ESCROW OFFICER
.O. Box, City, State, Zip code)
IAM PLACE, #130
CALIFORNIA 92122

that there is now due, owing, and unpaid from – (Name and Address of Taxpayer)
thacre
eak Trl, Poway, CA 92064-3058
America, the sum of FOUR HUNDRED NINE THOUSAND SEVEN HUNDRED THIRTY TWO DOLLARS

xes secured by a lien pursuant to Internal Revenue Code (IRC) Sections 6321 and 6322, or Estate Tax Lien
on 6324, from the date of each Assessment.

	Taxpayer EIN or SSN	Assessment Date	Unpaid Assessed Balance	Accrued Interest	Accrued Late Payment Penalty	TOTAL	
3	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	05/01/1995	$112,566.52	$141,569.72	$17,603.22	$271,729.86	ND #1
4	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	08/05/1995	$9,967.68	$12,058.65	$2,358.00	$24,384.33	ND #1
95	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	11/24/1997	$27,533.65	$20,078.68	$2,688.75	$50,301.08	OK
96	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	11/24/1997	$12,684.56	$9,250.29	$2,228.73	$24,163.58	OK
03	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	11/08/2004	$17,651.12	$1,250.38	$2,175.68	$21,077.14	OK
04	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	05/30/2005	$16,476.45	$655.45	$946.08	$18,078.98	OK

al Interest will 01/07/2006 Dated at San Diego, California 92101 this 5TH day

eral Tax Lien(s) has been recorded, a *Certificate of Release of Federal Tax Lien* will be filed immediately *only if* ***to in cash or by either a certified, cashier's, or treasurers check. The check must be drawn on any bank or incorporated under the laws of the United States, or of any state or possession of the United States. Payment ble by a United States postal, bank, express, or telegraph money order. If you pay by personal check, certificate of release will be delayed until the bank honors the check.***

ciaries: For personal liability for failure to honor priority of debts due the United States, see Sections 3466 and 3467 of tes (31 U.S.C. 191, 192).

=R FNF SHOREHAM 8584578149 TO IMS P.03
:23 IRS 5BSE SAN DIEGO 619 615 3722 P.03/03

Department of the Treasury-Internal Revenue Service

Notice of Federal Taxes Due

Escrow or Docket Number
8848051-ND

Amount due
$76,534.44

(Escrow Holder, Agent of Taxpayer or Fiduciary)
ATIONAL TITLE
OSI – ESCROW OFFICER
P.O. Box, City, State, Zip code)
EHAM PLACE, #130
, CALIFORNIA 92122

ed that there is now due, owing, and unpaid from – (Name and Address of Taxpayer)
oothacre
n Peak Trl, Poway, CA 92064-3058
of America, the sum of SEVENTY SIX THOUSAND FIVE HUNDRED THIRTY FOUR DOLLARS & 44/100

Taxes secured by a lien pursuant to Internal Revenue Code (IRC) Sections 6321 and 6323, or Estate Tax Lien
ction 6324, from the date of each Assessment.

	Taxpayer EIN or SSN	Assessment Date	Unpaid Assessed Balance	Accrued Interest	Accrued Late Payment Penalty	TOTAL
/92	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	09/21/1992	$8,823.78	$14,708.08	$1,882.83	$25,322.76 ND
1/92	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	12/21/1992	$9,258.66	$14,778.57	$1,966.50	$26,004.73 ND
1/?	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	04/12/1993	$8,979.10	$13,948.70	$1,904.43	$24,830.23 ND
1/95	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	07/03/1995	$56.93	$94.38		$151.31
1/96	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	12/09/1996	$14.00	$11.42		$25.42 OK ND

tional interest will 12/19/2005 Dated at San Diego, California 92101 this 5TH day

Federal Tax Lien(s) has been recorded, a *Certificate of Release of Federal Tax Lien* will be filed immediately *only if made in cash or by either a certified, cashier's, or treasurer's check. The check must be drawn on any bank or any incorporated under the laws of the United States, or of any state or possession of the United States. Payment made by a United States postal, bank, express, or telegraph money order. If you pay by personal check, the certificate of release will be delayed until the bank honors the check.*

Fiduciaries: For personal liability for failure to honor priority of debts due the United States, see Sections 3466 and 3467 of statutes (31 U.S.C. 191, 192).

RECORDING REQUESTED BY:
Internal Revenue Service

AND WHEN RECORDED MAIL TO:

Internal Revenue Service
P.O. Box 30216
Laguna Niguel, CA 92607

1750

DL # 1997-0048509
04-FEB-1997 02:30 PM

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY SMITH, COUNTY RECORDER
RF: 5.00 FEES: 7.00
AF: 1.00
MF: 1.00

THIS SPACE RESERVED FOR RECORDER ONLY

Form 668 (Y) (Rev. October 1993) 341

Department of the Treasury - Internal Revenue Service

Notice of Federal Tax Lien

District: SOUTHERN CALIFORNIA

Serial Number: 339702927

As provided by section 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and right to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.

Name of Taxpayer: RODNEY M & MARCIA L TOOTHACRE

Residence: 13742 INDIAN PEAK TRAIL
POWAY, CA 92064

IMPORTANT RELEASE INFORMATION: For each assessment listed below, unless notice of the lien is refiled by the date given in column (e), this notice shall, the day following such date, operate as a certificate of release as defined in IRC 6325(a).

Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
1040	12/31/93	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	05/01/95	05/31/05	128671.68
1040	12/31/94	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	06/05/95	07/05/05	10567.68

Place of Filing

COUNTY RECORDER
SAN DIEGO COUNTY
SAN DIEGO, CA 92101

Total $ 139239.36 ✓

This notice was prepared and signed at Laguna Niguel, CA, on the,

30th day of January, 19 97.

Signature
for L SALVO

Title
Revenue Officer 33-01-1523
(619) 557-6371

(NOTE: Certificate of officer authorized by law to take acknowledgment is not essential to the validity of Notice of Federal Tax lien Rev. Rul. 71-466, 1971 - 2 C.B. 409)

Part 1 - Kept by Recording Office Form 668 (Y)(Rev. 10-93)

695 adhoc - SD:1997 00048509

07/14/2005 07:05 AM 1 of 1

EXHIBIT 5

Recording Requested By Internal Revenue Service. When recorded mail to:

INTERNAL REVENUE SERVICE
PO BOX 145585 STOP 8420G
CINCINNATI, OH 45250-5585

Recording Date: 02/04/1997

8356

COURT RECORDING INFORMATION:

Liber	Page	UCC No.	Serial No.
n/a	n/a	n/a	970048509

DOC # 2005-1079616

DEC 16, 2005 11:26 AM

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY J. SMITH, COUNTY RECORDER
FEES: 10.00
PAGES: 2

2005-1079616

For Use by Recording Off.

Form 12474 (Rev. 10-00) 3469 Department of the Treasury - Internal Revenue Service

Revocation of Certificate of Release of Federal Tax Lien

Area: SMALL BUSINESS/SELF EMPLOYED AREA #14
Lien Unit Phone (800) 913-6050

Serial Number 339702927

I certify that we mistakenly issued a certificate of release of the Notice of Federal Tax Lien filed against the taxpayer named below. I declare that the certificate of release filed on 08th August 2005 **is revoked and that the lien is reinstated as provided under Internal Revenue Code Section 6325(f)(2).**

Name of Taxpayer RODNEY M & MARCIA L TOOTHACRE

Residence 13742 INDIAN PEAK TRAIL
POWAY, CA 92064

Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
1040	12/31/1993	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	05/01/1995	05/31/2005	128671.68
1040	12/31/1994	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	06/05/1995	07/05/2005	10567.68
*******	***********	*************	**********	*************	****************

Place of Filing
COUNTY RECORDER
SAN DIEGO COUNTY
SAN DIEGO, CA 92101

Total $ 139239.36

This notice was prepared and signed at LAGUNA NIGUEL, CA, on this, the 01st day of December, 2005.

Signature Susan A. Hansen

Title Director, Campus Compliance Operations

(**NOTE:** Certificate of officer authorized by law to take acknowledgments is not essential to the validity of Revocation of Certificate of Release of Federal Tax lien Rev. Rul. 71-466, 1971 - 2 C.B. 409)

Part 1 - RECORDING OFFICE COPY

Form **12474** (Rev. 10-00)
CAT. NO 73179W

0288

0356A

Reason for Revoking the Certificate of Release of Federal Tax Lien and Reinstating the Notice of Federal Tax Lien

- ☐ Federal Tax Lien released in error.
- ☐ Failure to comply with collateral agreement in connection with a compromise.
- ☐ Liability was not discharged through litigation.
- ■ Notice of Federal Tax Lien was not refiled timely.

This is a true certified copy of the record
if it bears the seal, imprinted in purple ink

GREGORY J. SMITH
Assessor/Recorder/Clerk
San Diego County, California

Form 12474 (Rev. 10-00)

3375 Department of the Treasury - Internal Revenue Service

Revocation of Certificate of Release of Federal Tax Lien

Area: SMALL BUSINESS/SELF EMPLOYED AREA #7 Lien Unit Phone (800) 913-6050	Serial Number 339702927	For Use by Recording Office

I certify that we mistakenly issued a certificate of release of the Notice of Federal Tax Lien filed against the taxpayer named below. I declare that the certificate of release filed on 08th August 2005 **is revoked and that the lien is reinstated as provided under Internal Revenue Code Section 6325(f)(2).**

Name of Taxpayer RODNEY M & MARCIA L TOOTHACRE

Residence 13742 INDIAN PEAK TRAIL
POWAY, CA 92064

COURT RECORDING INFORMATION:

Liber	Page	UCC No.	Serial No.
n/a	n/a	n/a	970048509

Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
1040	12/31/1993	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	05/01/1995	05/31/2005	128671.68
1040	12/31/1994	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	06/05/1995	07/05/2005	10567.68
******	***********	************	***********	***********	***************

Place of Filing
COUNTY RECORDER
SAN DIEGO COUNTY
SAN DIEGO, CA 92101

Total $ 139239.36

This notice was prepared and signed at LAGUNA NIGUEL, CA, on this,

the 01st day of December, 2005.

Signature *Susan A. Hansen*

Title Director, Campus Compliance Operations

(**NOTE:** Certificate of officer authorized by law to take acknowledgments is not essential to the validity of Revocation of Certificate of Release of Federal Tax lien Rev. Rul. 71-466, 1971 - 2 C.B. 409)

Part 3 - TAXPAYER COPY

Form **12474** (Rev. 10-00)
CAT. NO 73179W

Reason for Revoking the Certificate of Release of Federal Tax Lien and Reinstating the Notice of Federal Tax Lien

- ☐ Federal Tax Lien released in error.
- ☐ Failure to comply with collateral agreement in connection with a compromise.
- ☐ Liability was not discharged through litigation.
- ■ Notice of Federal Tax Lien was not refiled timely.

Internal Revenue Service
Stop 8420G
Cincinnati, OH 45999

Official Business
Penalty for Private Use, $300

UNITED STATES POSTAGE
U.S. OFFICIAL MAIL
PENALTY FOR PRIVATE USE $300
PITNEY BOWES
02 1A
0004205333
$ 00.39⁰
JAN 30 2006
MAILED FROM ZIP CODE 41011

RODNEY M & MARCIA L TOOTHACRE
13742 INDIAN PEAK TRAIL
POWAY, CA 92064

92064+3056-42 C024

2/2/06 Witnessed receipt by RMZ, in his MailBox of attached Document which is dated 12/1/2005 and the envelope is "franked" 1/30/06.

James Schiffmann

E-130 (Rev. 10-1994)
Cat. No. 41089J

UNITED STATES TAX COURT

RODNEY M. TOOTHACRE, Petitioner, v. COMMISSIONER OF INTERNAL REVENUE Respondent.	)	Docket No. 26357-06"L" **DECLARATION OF JANE T. SCHIFFMANN**

DECLARATION OF JANE T. SCHIFFMANN

I, Jane T. Schiffmann, declare as follows:

1. On **February 2, 2006,** I was personally present and witnessed Rod M. Toothacre open the envelope a copy of which is attached hereto.

2. That envelope bears a franking date of January 30, 2006.

3. That the envelope contained a document entitled Revocation of Certificate of Release of Federal Tax Lien dated December 1, 2005.

4. That Mr. Toothacre asked me to witness the receipt of that envelope in my handwriting which I did.

I declare under penalty of perjury that the foregoing is true and correct and if called to testify I could competently testify thereto.

Executed this 16th day of November, 2007, at San Diego, California.

JANE T. SCHIFFMANN

EXHIBIT 6

Case Activity Record Print

TP	TOOTHACRE, RODNEY M 13742 INDIAN PEAK TRAIL POWAY, CA 92064-3056	WUNO	9806096020	Source	CO	DO 33	Part 1
		TIN	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	Group		AO Chadwell, Cynthia	
		MFT	30	Type	DPLN	Assigned	04/25/2006
		Features				Requested	12/23/2005
DKTNO	DC Office	Attorney				Received	04/03/2006
KEYTP		KEYTIN				Created	04/06/2006
TP PHONE	858-513-0217					KEYPER	199312
REP	JOSEPH CARMELLINO	REP PHONE					

Case Activity Records
Total Time: 13.25

Date	Action	Hours	Follow-Up/ Completed	Notes
04/25/2006	CR - NR	0.00		[SYSTEM]
04/26/2006	** - EC	0.00		[SYSTEM] eCase found new ACS information for this case.
04/27/2006	CO - OT	0.00		[SCR - Yuste, Edward (5867)] Prepared and mailed acknowledgement letter to TP. No POA on file.
04/27/2006	** - EC	0.00		[SYSTEM] eCase found new AOIC information for this case.
05/09/2006	AN	1.50		[SCR - Yuste, Edward (5867)] Screening CDP case file. Secured and researched IDRS. Input loc code. 3172 letter dated 12/07/2005. Form 12153 received 12/23/2005 (postmarked envelope missing); TIMELY. TP not in compliance; 2005 not filed, but TP has filed an extension per IDRS. POA on file but is not a valid POA. Acknowledgement letter was previously prepared and mailed to TP. Forward case file to ATM for review. Case reassigned to S/O Cynthia Chadwell.
05/16/2006	CR - RA	0.00		[SYSTEM]
05/16/2006	AN	0.00		[Chadwell, Cynthia (4139)] RECEIVED CASE FILE FROM SCREENER. PER LITIGATION ADVISOR IN LAGUNA, THIS TP ALSO HAS A DAMAGE SUIT PENDING RELATING TO THE LIEN. I ALSO HAVE RELATED CDP ON PARTNERSHIP ENTTITY
06/02/2006	AN	3.00		[Chadwell, Cynthia (4139)] PER ALS PRINT L 3172 DATED 12/7/05 FOR 30-199312 AND 199412. LIEN FILING DATE 12/6/05. LAST DAY TO RQUEST TIMELY CDP HEARING 1/12/06. LETTER SENT SEPARATELY TO EACH SPOUSE. HOWEVER L 3172 ATTACHED TO 12153 SHOWS DATE OF 12/13/2005, CERTIFIED MAIL # MATCHES LETTER SENT TO TPW (WHO IS DECEASED) AND SAME DATE OF 1/12/06 AS LAST DAY TO SUBMIT TIMELY CDP AND LIEN FILING DATE OF 12/6/06. F 12153 IRS RECD DATE OF 12/23/05 SIGNED BY TPH. TP ISSUES RE LIEN FILING: 1). TAXES DISCHARGED IN TPS BANKRUPTCY FILED 9/8/95 AND DISCHARGED 1/16/96. 2). THE NFTL DATED 1/30/97 AND RECORDED ON 2/4/97 WAS SELF-RELEASED. PER INITIAL LIEN RECORDED ON 2/4/1997 TP POINTS OUT THAT LEIN REFILING DATE PASSED 3). IRS ISSUED A CERTIFICATE OF RELEASE 4). TP NOT GIVEN NOTICE WITHIN 5 BUSINESS DAYS FROM FILING OF THE NFTL. 5). STATUTE OF LIMITATIONS EXPIRED. REFERENCED TRANSCRIPT TP HAD W/C I DETERMINED WAS NOT AN IRS TRANSCRIPT BUT A DMI THIRD PARTY SOFTWARE TRANSCRIPT. 6). IRS ACTED WITH MALICE. RO TOOK STEPS TO PREVENT ESCROW FROM CLOSING BY FILING TWO SEPARATE EXPROW DEMANDS. ONE WITHOUT 1993 AND 1994 LIABILITIES AND THE OTHER INCLUDED THESE LIABILITIES. CDP IS ONLY FOR 1993 AND 1994 YEARS. TP ALSO HAS LIABILITIES FOR 1995, 1996, 2003 AND 2004. NO RETURN FILED 2005. TP IS 70 YEARS OF AGE. SPOUSE DECEASED. NO NFTL FILED ON 2003 AND 2004. REVIEWED TXMODS. 1993 IS A LATE FILED JOINT SELF ASSESSED RETURN. TP HAD SE INCOME. NO WITHHOLDING AND NO ESTIMATES. 2 BK INDICATORS AND AND 2 OICS – FIRST REJECTED IN 1994 BUT 1993 HAD NOT BEEN FILED OR ASSESSED. SECOND WITHDRAWN IN 2005. FPLP PYMTS LAST PYMT POSTED 3/22/06. TC 520 CC 76 DATED 12/23/05. 1994 WAS A TIMELY FILED JOINT RETURN WITH SE INCOME BUT NO WITHHOLDING OR ESTIMATED TAX PAYMENTS. TWO BK INDICATORS AND AN OIC. TC 520 INPUT. REVIEWED ICS HISTORY 66 PAGES. TPW PASSED AWAY 1/14/02. TP SUBMITTED AN ETA OIC THAT WAS LATER WITHDRAWN. HE HAD SUFFICIENT EQUITY IN RESIDENCE TO F/P AND NO SPECIAL CIRCUMSTANCES. AFTER OIC WITHDRAWN CASE REASSIGNED TO RO. TP ASKED ABOUT CSED AND LIEN RELEASE HE REC'D FOR 1993 AND 1994. RO DID SOME RESEARCH AND THEN NOTIFIED TP ON 10/18/05 THAT 10 YEAR CSED EXTENDED BY BK AND OIC. RO ALSO ADVISED TP THAT NFTL WOULD BE REINSTATED. ACCORDING TO ICS HISTORY RO REQUESTE A REVOCATION OF THE NFTL VIA TECH SUPPORT. PER 12/2/05 ENTRY THE REVOCATION WAS APPROVED AND THAT A RE-FILE/NEW LIEN WAS ISSUED. ALSO RO WAS TO MANUALLY RECORD THE LIEN. RO RECORED LIEN AT SDCR ON 12/5/05. RECORDING #2005-1042915. ON 12/13/05 RO REC'D CORRESPONDENCE FROM AN ATTY NAMED JOSEPH CAREMLLINO—A 2848 WAS REC'D LATER ON 12/28/05. . TAS CASE OPENENED 14/14/05 JENNY BUFORD RE CSED ON 1993/1994 TAS CASE CLOSED 12/23/05 WITH NOTE THAT CSED WAS EXPLAINED. CDP REC'D 12/23/05. DISCUSSION WITH POA 1/3/06 RO EXPLAINED WHY CSED HAD NOT EXPIRED. AGREED TO HOLD FUNDS FOR 1993/1994 IN ESCROW UNTIL CDP YEARS RESOLVED AND NOT $100K TP PROPOSED. PER 1/9/06 ENTRY RO WAS TO START SUIT TO REDUCE TAX CLAIM TO JUDGEMENT AND CHECKED SDCR TO ENSURE NO NEW LIENS FILED AFTER LIEN SELF RELEASED AND NEW LIEN FILED. CDP REC'D IN APPEALS ON 4/3/06. ASSIGNED TO THIS SO ON 5/16/06. WAS NOTIFIED BY LITIGATION ADVISOR IN

			LAGUNA NIGUEL THAT TP HAD A DAMAGE SUIT PENDING RELATING TO THE LIEN FILING. ALSO HAVE CDP ON RELATED PSHIP ENTITY WITH SAME ISSUES. 5/5/06 ICS HISTORY ENTRY [illegible] LITIGATION ADVISOR SHOWS POSSIBLE DIFFERENT CSED COMPUTATION. I DID MY OWN CSED COMPS USING ONLY THE CH 7 BK AND WITHDRAWN OIC. THE FIRST BK CH 13 WAS FILED BEFORE THE RETURNS WERE ASSESSED HOWEVER IT WAS NOT DISCHARGED UNTIL AUGUST 1995 2-3 MOS AFTER THE RETURNS WERE ASSESSED. SEE NOTES MY CSEDS ARE FOR 1993 5/20/06 AND 1994 6/25/06. THERE IS APPARENTLY A POA ON THIS ACCT – NEED POA INFO. NEED COPY OF REVOCATION FORM RECORDED AT SDCR. ISSUES 1. CSED EXPIRED. THE CSEDS WERE SUSPENDED BY THE TPS BANKRUPTCY AND EXTENDED BY THE OIC. OIC EXTENSION WAS 70 DAYS. IRC 6503 Suspension of running of period of limitation. (b) Assets of taxpayer in control or custody of court. The period of limitations on collection after assessment prescribed in section 6502 shall be suspended for the period the assets of the taxpayer are in the control or custody of the court in any proceeding...., and for 6 months thereafter. NOTE TP REFERENCED 6502 (a) BUT NEGLECTED THIS SECTION. TRANSCRIPT TP PROVIDED SHOWING ASSMT DATE FOR 1993 AS 4/15/94 IS NOT AN IRS TRANSCRIPT. BOTTOM SHOWS COPYRIGHT DECISION MODELING, INC. WWW.TAXCOMPS.COM –THIS IS A DMI THIRD PARTY VENDOR SOFTWARE PROGRAM. THIS IS NOT AN IRS TRANSCRIPT CONTAINING INFORMATION ON THE ACCOUNT FROM IDRS. 2. TAXES DISCHARGED IN CHAPTER 7 PROCEEDING. DISCHARGE ORDER STATES PT DISCHARGED FROM ALL DISCHARGEABLE DEBTS UNDER 11 USC SEC 523 BUT NOT DEBTS DETERMINED TO BE NONDISCHARGEABLE DEBTS. 523(a)(1)(A) income taxes not discharged if tax is entitled to priority under 507(a)(8). 3 year rule, 507 (a)(8)(A)(i), return was due within 3 years prior to filing of petition including extensions. 508(a)(8)(A)(ii) 240 day rule – income taxes where assmt made within 240 days prior to petition date. Two year rule 523(a)(1)(B)(ii) income taxes from a return filed within 2 years before petition date not discharged. BASED ON MY REVIEW 1993 AND 1994 WERE NOT DISCHARGEABLE AND WILL NOT BE ABATED. 3. LIEN WAS RELEASED AND THE IRS ISSUED A CERTIFICATE OF RELEASE. THE TP WAS NOT GIVEN TIMELY NOTICE OF THE LIEN FILING. THE NFTL ON THE 1993 AND 1994 YEARS WAS NOT REFILED TIMELY SO THE A CERTIFICATE OF RELEASE OF THE NFTL WAS ERRONEOUSLY ISSUED. IRC 6325(f)(2) GIVES THE IRS AUTHORITY TO REVOKE THE RELEASE AND REINSTATE THE LIEN. A NEW LIEN WAS FILED UNDER IRC 6323(f) SO THAT THE REINSTATED LIEN WILL BE VALID AGAINST ANY LIEN OR INTEREST IN 6323(a). PER IRM NEW LIEN HAS TO BE FILED AFTER THE NOTICE OF REVOCATION IS MAILED TO THE TP AND RECORDED. THE EFFECTIVE DATE OF REINSTATEMENT IS THE DATE THE IRS MAILS THE NOTICE OF REVOCATION TO THE TP BUT NOT BEFORE THE DATE THE NOTICE IS FILED AT THE SDCR. I WILL NEED A COPY OF THE NOTICE OF REVOCATION. PER ALS THE NEW LIEN WAS REDORDED 12/5/05 WITH REC # 2005-1042915. HOPEFULLY THE NOTICE OF REVOCATION WAS RECORDED AND MAILED TO THE TP BEFORE THIS DATE. ALS SHOWS 12/7/05 AS 3172 DATE YET COPY OF L 3172 SHOWS 12/13/05. THE DIFFERENCE MAY BE DUE TO FACT RO MANUALLY FILED LIEN. ALSO NOTED THAT LIEN FILING DATE ON NOTICE IS GIVEN AS 12/6/05 WHEN ALS AND ICS SHOWS ACTUAL RECORDING DATE TO BE 12/5/05. 5 BUSINESS DAYS AFTER RECORDING DATE IS 12/12/05. IRC 6320(a)(2)(C) THUS IT CAN BE ARGUED THAT NOTICE WAS ISSUED ONE DAY LATE. HOWEVER AS FAR AS I AM CONCERNED THIS IS AN ADMINISTRATIVE ERROR THAT DOES NOT INVALIDATE THE NFTL. BASED ON WORDING IN TPS APPEAL HE CLAIMS THAT HE WAS NOT NOTIFIED WITHIN 5 BUSINESS
06/05/2006	AN	0.50	[Chadwell, Cynthia (4139)] REQUEST TO APS TO REMOVE TPW NAME OFF ACDS. CHECKED CFINK. NO POA FOR JOSEPH CAREMLLINO ON CFINK NO POA IN CASE FILE. RO WILL NEED TO PROVIDE A COPY OF THE 2848 BEFORE I CAN ISSUE A CONTACT LETTER. PREPARED EMAIL TO RO MAKING A REQUEST FOR SPECIFIC DOCUMENTS AND AN EXPLANATION TO SPECIFIC ISSUES. NO EXPARTE CONTACT IN EMAIL. ALSO SEND COPY OF THIS TO THE SUIT ADVISOR WHO INITIALLY INQUIRED ABOUT CDPS ADVISING HER THAT I COULD NOT DISCUSS MERITS UNTIL DECISION RENDERED OR TP WITHDREW CDP.
06/29/2006	AN	1.00	[Chadwell, Cynthia (4139)] No response from RO. Checked county records online. The revocation and reinstated or new lien was filed.
07/06/2006	AN	0.50	[Chadwell, Cynthia (4139)]
07/10/2006	CO - OT	0.75	[Chadwell, Cynthia (4139)] SUBSTANTIVE CONTACT LETTER PREPARED SCHEDULING TELEPHONE HEARING. TP GIVEN OPTION OF FACE TO FACE AND CORRESPONDENCE HERING IF HE CONTACTED ME TO ARRANGE. SUMMARIZED HIS ISSUES AND MY PRELIMINARY FINDINGS. TP CAN BRING ANYTHING ELSE TO SUPPORT HIS POSITION.
07/17/2006	CO - OT	0.25	[Chadwell, Cynthia (4139)] LETTER NOT YET MAILED. UPDATED DATE AND HEARING DATE. CHECKED IDRS. NO CFINK ON IMF OR BMF. CHECKED ICS. PER RO ENTRY CARMELLINO IS REP ON IMF ONLY. WILL SEND REP COPY OF LETTER WITH BMF DATA SANITIZED. TP DECEASED SPOUSE'S NAME STTILL ON ACDS. GAVE SECOND REQUEST TO APS HAVE HER NAME REMOVED
08/02/2006	CF - ML	1.00	[Chadwell, Cynthia (4139)] RECEIVED LETTER FROM TP CANCELLING PHONE HEARING. STATES HE WANTS TO HANDLE HIS HEARING BY WRITTEN CORRESPONDENCE. REQUESTS I DELAY MAKING DECISION UNTIL HE GETS ADDL INFO HIS ATTORNEY REQUESTED THRU FOIA. READ FOIA REQUEST. ALOT OF THE INFO REQUESTED IS NOT REALLY PERTINENT OR USEFUL TO CDP LIEN APPEAL AND THE 3 ISSUES RAISED THAT ARE RELEVANT. PREPARED DETAILED LETTER TO TP STATING POSITION AND GIVING TP OPPORTUNITY TO PROVIDE LEGAL BASIS FOR DISPUTING MY ANALYSIS OF THE BANKRUPTCY DISCHARGED, CSED, AND LIEN REVOCATION REFILING. SEE LETTER IN FILE. ALSO SENT COPY TO TAX REP.

		ADVISED TP I WOULD CLOSE CASE AND ISSUE NOD IF HE DID NOT RESPOND. GAVE TP OPTION OF SUBMITTING CIS INFO IF HE DROPPED ISSUE REGARDING LIEN FILING AND MERITS OF LIABILITY AND WANTED TO CONSIDER COLLECTION ALTERNATIVES. GAVE TP OTPION OF WITHDRAWING CDP AND ADVISED OF CONSEQUENCES.
08/09/2006 AN	0.00	[Chadwell, Cynthia (4139)] RECEIVED MFTRAX TRANSCRIPTS. MADE COPIES AND MAILED TO TP AND TAX REP
08/31/2006 AN	1.25	[Chadwell, Cynthia (4139)] REVEIWED 8/17/06 LETTER AND DOCUMENTS. APPEARS TP IS DELAYING BY REQUESTING ADDL TIME.
09/15/2006 CM	2.00	[Chadwell, Cynthia (4139)]
09/22/2006 AN	0.50	[Chadwell, Cynthia (4139)] ON SECOND REVIEW OF LETTER FROM TPS ACCOUNTANT DETERMINED IT WAS PREMATURE TO CLOSE CDP WITHOUT ADDRESSING ISSUES RAISING REGARDING STATUTE. CPA QUOTED IRC ON WHAT DATE IS USED FOR CALC OF SOL BUT I DON'T BELIEVE THIS IS CORRECT. FURTHER TP REQUESTED ADDL 30 DAYS TO GET INFO FROM FOIA REQUEST/DISCLOSURE HAD REQUEST AND SENT TP LETTER STATING IT WOULD TAKE ADDL TIME. SINCE TP LIKELY TO PETITION A NOD I WILL GIVE TP REASONABLE OPPORTUNITY TO GET DOCUMENTS HE REQUESTED IN FOIA AND ALSO CLEAR UP THE INFO PROVIDED TO TP BY HIS CPA.
10/03/2006 ** - TM	0.00	[Flatau, Kathleen A. (5602)] WLR OF 9/20- SO CPE 9/25-9/29: per so preparing for closure ready to write up. ecd 10/6
11/09/2006 CM	1.00	[Chadwell, Cynthia (4139)] SUMMARY: DECIDED TO HOLD OFF ON ISSUING LETTER TO ENSURE TP HAD A REASONABLE PERIOD OF TIME TO OBTAIN DOCUMENTS HE REQUESTED VIA FOIA FROM IRS ALTHOUGH I DIDN'T BELIEVE THESE DOCUMENTS WERE SPECIFICALLY RELEVANT TO THE ISSUES RAISED IN CDP. ALSO, THERE IS A HIGH PROBABILITY TP WILL APPEAL DET LTR SO THEIR MAY BE AN ISSUE REGARDING WHETHER TP HAD A REASONABLE OPPORTUNITY TO SUBMIT DOCUMENTS HE BELIEVED WERE PERTINENT TO HIS HEARING. TP WANTED ADDL 30 DAYS FROM DATE DOCS RECD FROM FOIA REQUEST PER LTR FROM DISCLOSURE THEY WOULD RESPOND BY 9/15 OR CONTACT TP. I HAVENT RECD ANY EVIDENCE FROM THE TP THAT DISCLOSURE DIDN'T RESPOND BY 9/15/06 SO HE HAS HAD OVER 30 DAYS. THEREFORE WILL UPDATE LETTER AND CLOSE CASE. FILING OF NFTL IS BEING SUSTAINED. BASED ON MY REVIEW THE TAXES WERE NOT DISCHARGED IN THE CH 7 BNK, THE COLLSEDS DID NOT EXPIRE, AND THE LIEN RELEASE WAS PROPERLY REVOKED AND A NEW LIEN FILED TO MAINTAIN GOVTS PRIORITY. TP WAS IN PROCESS OF REFINANCING RESIDENCE AT TIME RO FILED REVOCATION AND NEW LIEN. HE WAS ADVISED OF THIS BEFORE IT HAPPENED. HIS DISPUTE OVER THE PAYOFF DEMAND HAS NO BASIS. MADE SOME REVISIONS TO ACM. TP ALSO HAS EH ON BMF.
11/09/2006 DM	0.00	[Chadwell, Cynthia (4139)]
11/15/2006 AC - FR	0.00	[Chadwell, Cynthia (4139)]

11-15-06

5210a #8193 approved

K Flatau

PLEASE COMPLETE THIS INFORMATION.

RECORDING REQUESTED BY:

INTERNAL REVENUE SERVICE

AND WHEN RECORDED MAIL TO:

INTERNAL REVENUE SERVICE
CCP LIEN UNIT
P O BOX 145595
STOP 8420G TEAM 207
CINCINATTI OHIO 45250-5595

F8
2P
2Cons

DOC # 2005-1097286

DEC 22, 2005 2:31 PM

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY J. SMITH, COUNTY RECORDER
FEES: 12.00
PAGES: 2

2005-1097286

THIS SPACE FOR RECORDER'S USE ONLY

13267

NOTICE OF FEDERAL TAX LIEN
(Please fill in document title(s) on this line)

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION
(Additional recording fee applies)

9/95
Rec.Form #R25

Form 668(Y)
(Rev. 10-1999)

Department of the Treasury - Internal Revenue Service

Notice of Federal Tax Lien

13268

Small Business/Self Employed Area: 34

Serial Number
265212205

For Optional Use by Recording Office

As provided by sections 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) Have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.

Name of Taxpayer
TOOTHACRE & PEDERSON, A PARTNERSHIP
ROD M TOOTHACRE, A PARTNER & CHARLES PEDERSON, A PARTNER REFILE OF SLID #339283063

Residence
4180 LA JOLLA VILLAGE DR SUITE 400
LA JOLLA, CA 92037-1473

IMPORTANT RELEASE INFORMATION: For each assessment listed below, unless notice of lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).

Kind of Tax (a)	Tax Period Ended (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
941	12/31/1991	95-3272342	09/21/1992	N/A	$8,869.

Place of Filing
COUNTY RECORDER
SAN DIEGO COUNTY
SAN DIEGO, CA 92101

Total **$8,869**

This notice was prepared and signed at SAN DIEGO, CA, on this, the 21st **day of** December, 2005.

Signature A Martinez
A. Martinez, Employee # - 33-07811

Title
Revenue Officer, Phone # - (619) 615-9550

PLEASE COMPLETE THIS INFORMATION.

RECORDING REQUESTED BY:

INTERNAL REVENUE SERVICE

AND WHEN RECORDED MAIL TO:

INTERNAL REVENUE SERVICE
CCP LIEN UNIT
P O BOX 145595
STOP 8420G TEAM 207
CINCINATTI OHIO 45250-5595

F8
2P
2Cons

DOC # 2005-1097285

DEC 22, 2005 2:31 PM

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY J. SMITH, COUNTY RECORDER
FEES: 12.00
PAGES: 2

2005-1097285

THIS SPACE FOR RECORDER'S USE ONLY

13265

NOTICE OF FEDERAL TAX LIEN
(Please fill in document title(s) on this line)

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION
(Additional recording fee applies)

9/95
Rec.Form #R25

Form 668(Y)
(Rev. 10-1999)

Department of the Treasury - Internal Revenue Service

Notice of Federal Tax Lien

13266

Small Business/Self Employed Area: 34

Serial Number
265212405

For Optional Use by Recording Office

As provided by sections 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) Have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.

Name of Taxpayer
TOOTHACRE & PEDERSON, A PARTNERSHIP
ROD M TOOTHACRE, A PARTNER & CHARLES PEDERSON, A PARTNER REFILE FOR SLID 339279822

Residence
4180 LA JOLLA VILLAGE DR SUITE 400
LA JOLLA ,CA 92037-1473

IMPORTANT RELEASE INFORMATION: For each assessment listed below, unless notice of lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).

Kind of Tax (a)	Tax Period Ended (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
941	12/31/1991	95-3272342	03/23/1992	N/A	$11,951.
941	03/31/1992	95-3272342	06/15/1992	N/A	$10,206.

Place of Filing
COUNTY RECORDER
SAN DIEGO COUNTY
SAN DIEGO, CA 92101

Total $22,15[illegible]

This notice was prepared and signed at SAN DIEGO, CA, on this, the 21st **day of** December, 2005 .

Signature [signature]
A. Martinez, Employee # - 33-07811

Title
Revenue Officer, Phone # - (619) 615-9550

DOC# 2006-0000692

Recording Requested By Internal Revenue Service. When recorded mail to:

INTERNAL REVENUE SERVICE
PO BOX 145585 STOP 8420G
CINCINNATI, OH 45250-5585

X40

4863

JAN 03, 2006 9:57 AM

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY J. SMITH, COUNTY RECORDER
FEES: 7.00
PAGES: 1

2006-0000692

For Optional Use by

Form 668 (Y)(c)
(Rev. February 2004)

3816 Department of the Treasury - Internal Revenue Service

Notice of Federal Tax Lien

Area: SMALL BUSINESS/SELF EMPLOYED AREA #14
Lien Unit Phone: (800) 913-6050

Serial Number
265212405

As provided by section 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United Stat on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue. a Partnership

Name of Taxpayer TOOTHACRE & PEDERSON, A PARTNERSHIP
ROD M TOOTHACRE, A PARTNER & CHARLES PEDERSON, A PARTNER
REFILE FOR SLID 339279822

Residence 4180 LA JOLLA VILLAGE DR SUITE 400
LA JOLLA, CA 92037-1473

IMPORTANT RELEASE INFORMATION: For each assessment listed below, unless notice of the lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(

Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
941	12/31/1991	95-3272342	03/23/1992	N/A	11951.77
941	03/31/1992	95-3272342	06/15/1992	N/A	10206.88

Place of Filing
COUNTY RECORDER
SAN DIEGO COUNTY
SAN DIEGO, CA 92101

Total $ 22158.65

This notice was prepared and signed at LAGUNA NIGUEL, CA, on this, the 21st day of December, 2005.

Signature Susan A. Hansen
for K BUHROW

Title
SPF ADVISOR 34-97-6712
(949) 389-4082

UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

145158 - BH

December 06, 2007
11:13:00

Civ Fil Non-Pris
USAO #.: 07CV2289 CIVIL FILING
Judge..: DANA M SABRAW
Amount.: $350.00 CK
Check#.: BC# 8339

Total-> $350.00

FROM: TOOTHACRE V. USA
CIVIL FILING

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

FILED 07 DEC -6 AM 11:15 CLERK U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA BY [signature]

I. (a) PLAINTIFFS

RODNEY M. TOOTHACRE

(b) County of Residence of First Listed Plaintiff SAN DIEGO
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
RODNEY M. TOOTHACRE, PRO SE
13742 INDIAN PEAK TRAIL, POWAY, CA 92064 (858)513-0217

DEFENDANTS

THE UNITED STATES OF AMERICA and THE IRS

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)
'07 CV 2289 DMS (WMC)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☒ 1	☐ 1	Incorporated or Principal Place of Business In This State	☐ 4	☒ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury - Med. Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence

Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt.Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☒ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
IRS SECTION 7433

Brief description of cause:
IRS FILED ILLEGAL LIENS ON PLAINTIFF'S PROPERTY

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 12/5/07

SIGNATURE OF ATTORNEY OF RECORD Rodney M. Toothacre, pro se

FOR OFFICE USE ONLY

RECEIPT # 145158 AMOUNT $350 12/6/07 BH APPLYING IFP JUDGE MAG. JUDGE